

MEMORANDUM

TO: District of Columbia Board of Zoning Adjustment
FROM: Jonathan Kirschenbaum, Case Manager
JL Joel Lawson, Associate Director Development Review
DATE: October 19, 2018
SUBJECT: BZA Case 19846 - request for special exception relief pursuant to Subtitle D § 5201.1 to allow a one-story rear enlargement to an existing rowhouse with a rooftop deck and an exterior staircase.

I. RECOMMENDATION

The Office of Planning (OP) recommends **approval** of the following special exception pursuant to Subtitle D § 5201:

- Rear Wall Extension, D § 306.4 (rear wall shall not extend further than 10 feet beyond the furthest rear wall of any adjoining residential building, existing rear wall extends 4 feet beyond the furthest rear wall, proposed rear wall would be extended an additional 12 feet 6 inches to extend a total of 16 feet 6 inches past the furthest rear wall, or 6 feet 6 inches more than allowed), and
- Rear Yard Setback, D § 306.2 (20 feet minimum required, 35.9 feet; 17.7 feet proposed).

II. LOCATION AND SITE DESCRIPTION

Address:	4821 43 rd Street, NW
Applicant:	Adam Rubinson and Susan Weinstein
Legal Description:	Square 1672, Lot 0009
Ward / ANC:	3/3E
Zone:	R-3
Lot Characteristics:	Rectangular interior lot measuring 24.33 feet in width and 95 feet in depth. The lot is bounded by 43 rd Street, NW to the west, and adjoining residential lots to the north, south, and east.
Existing Development:	Attached three-story single-family rowhouse.
Adjacent Properties:	Attached three-story single-family rowhouses.
Surrounding Neighborhood Character:	The surrounding neighborhood character is predominantly residential rowhouses and detached houses.

Proposed Development:	The applicant proposes to construct a one-story rear enlargement with a roof deck and an exterior staircase leading to the rear yard. The addition would extend the building footprint 16 feet 6 inches past the furthest rear wall of the adjoining property to the south. The roof deck above the addition would be accessed from an entryway located on the second floor of the house and from exterior stairs leading to the rear yard. This proposed staircase would extend into the rear yard and requires a special exception to reduce a portion of the rear yard to less than the required 20 feet.
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III. ZONING REQUIREMENTS and RELIEF REQUESTED

R-3 Zone	Regulation	Existing	Proposed ¹	Relief:
Height D § 303	40 ft. max.	32.8 ft.	No change	None required
Lot Width D § 302	20 ft. min.	24.3 ft.	No change	None required
Lot Area D § 302	2,000 sq. ft. min.	2,311 sq. ft.	No change	None required
Lot Occupancy D § 304	60% max.	43.4%	60%	None required
Front Yard D § 305	Setback must be in range of existing front setbacks	Front setback is in range of existing front setbacks	No change	None required
Rear Yard D § 306	20 ft. min.	35.9 ft.	17.7 ft.	Special exception: 2.3 ft.
Side Yard D § 307	None required, but 5 ft. min. if provided	None required	None required	None required
Parking C § 701	1 parking space dwelling unit	1 parking space	No change	None required
Rear Extension D § 306.4	Addition may not extend more than 10 ft. past furthest rear wall of adjacent building	Rear wall extends 4 feet past the building to the south; 0 feet past the building to the north	Proposed rear wall would extend 16 ft. 6 in. past the building to the south	Special exception relief requested

¹ Information provided by the Applicant. See Exhibit 45.

IV. ANALYSIS

Subtitle E Chapter 5201 ADDITION TO A BUILDING OR ACCESSORY STRUCTURE

5201.1 *The Board of Zoning Adjustment may approve as a special exception in the R zones relief from the following development standards of this subtitle, subject to the provisions of this section and the general special exception criteria at Subtitle X, Chapter 9:*

(a) *Lot occupancy;*

(b) Yards;

(c) *Courts;*

(d) *Minimum lot dimensions;*

(e) *Pervious surface; and*

(f) *The limitations on enlargements or additions to nonconforming structures as set forth in Subtitle C § 202.2.*

5201.2 *Special exception relief under this section is applicable only to the following:*

(a) An addition to a residential building;

(b) *A new or enlarged accessory structure that is accessory to such a building; or*

(c) *A reduction in the minimum setback requirements of an alley lot.*

The applicant proposes to construct an addition to a residential rowhouse.

5201.3 *An applicant for special exception under this section shall demonstrate that the proposed addition or accessory structure shall not have a substantially adverse effect on the use or enjoyment of any abutting or adjacent dwelling or property, in particular:*

(a) *The light and air available to neighboring properties shall not be unduly affected;*

The proposed addition would only extend the rear wall of the first floor of the subject house. In addition, the proposed roof deck above the proposed addition and the proposed exterior staircase connecting between the rear yard and deck would be unenclosed.

The rear wall of the house to the south of the subject property is set back four feet from the rear wall of the subject property, and has an existing deck that is approximately 10 feet deep and raised approximately eight feet from the ground.

The proposed addition, deck, and staircase would not further block light and air available to the property to the south. The property owner to the south has also signed a petition of support (Exhibit 21) for the proposed rear wall extension.

The proposed rear wall extension would not extend more than 10 feet past the rear wall of the property to the north, and this property owner has also signed a petition of support (Exhibit 21).

(b) *The privacy of use and enjoyment of neighboring properties shall not be unduly compromised;*

Privacy and enjoyment of neighboring properties should not be unduly compromised as the rear addition would not have any windows along either side property line.

The proposed roof deck at the second floor would extend from side lot line to side lot line, which would be wider than the deck that currently exists. However, the houses abutting the subject property to the north and south both have existing decks off their second floors. Thus, the level of privacy of use and enjoyment of neighboring properties that currently exists should not be significantly reduced by the proposed deck. Further, the rear walls of the two abutting properties at the second floors are either set back four feet or pushed forward four feet, which helps provide privacy. The proposed unenclosed staircase would be set back one foot from the northern side property line.

- (c) *The addition or accessory structure, together with the original building, as viewed from the street, alley, and other public way, shall not substantially visually intrude upon the character, scale, and pattern of houses along the subject street frontage;*

The one-story proposed addition and rooftop deck would be located in the rear of the subject property and would not be visible from the street. The subject lot does not back onto an alley. The rowhouses that all front the subject street frontage have varying rear wall setbacks and the proposed rear addition should not visually intrude upon the character, scale, and pattern of the rowhouses.

- (d) *In demonstrating compliance with paragraphs (a), (b), and (c) of this subsection, the applicant shall use graphical representations such as plans, photographs, or elevation and section drawings sufficient to represent the relationship of the proposed addition or accessory structure to adjacent buildings and views from public ways; and*

The applicant submitted a survey, architectural plans, and photographs to illustrate the proposed addition and surroundings.

- (e) *The Board of Zoning Adjustment may approve lot occupancy of all new and existing structures on the lot up to a maximum of seventy percent (70%).*

The applicant states that the total lot occupancy with the proposed addition is 60 percent.

5201.4 *The Board of Zoning Adjustment may require special treatment in the way of design, screening, exterior or interior lighting, building materials, or other features for the protection of adjacent and nearby properties.*

No special treatment of the proposed addition is recommended.

5201.5 *This section may not be used to permit the introduction or expansion of a nonconforming use as a special exception.*

The proposed addition is a permitted use in the R-3 zone.

5201.6 *This section shall not be used to permit the introduction or expansion of nonconforming height or number of stories as a special exception.*

The number of stories and height created by the addition would be conforming.

V. COMMENTS OF OTHER DISTRICT AGENCIES

DDOT provided comments noting no objection to the request (Exhibit 46).

VI. COMMUNITY COMMENTS TO DATE

No comments from the ANC had been submitted to the record at the time this report was drafted.

A petition of neighbor support, including the two abutting property owners, was filed to the record (Exhibit 21), while Exhibit 42 provides a statement of neighbor support, and Exhibit 43 provides emails in support from various neighbors.

Figure 1: Location Map

